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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/560,456

12/14/2005

Hartmut Bohnet

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02/18/2009

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EXAMINER

SAETHER, FLEMMING

ART UNIT

PAPER NUMBER

3677

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/560,456	Applicant(s) BOHNET ET AL.	
	Examiner Flemming Saether	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Drawings

The drawings received on 11/14/2008 have been approved.

Claim Rejections - 35 USC § 102/103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-9 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Oberhofer (US 6,735,921). In considering the embodiment of Fig. 7 as referenced by applicant's remarks, Oberhofer discloses a fixing device in combination with a glass panel (1), here is should recognized that the claims do not preclude the "panel" from being a laminated panel and that the "drilled" is a product-by-process limitation wherein it is only the final product which is considered; as such the glass panel includes an undercut hole (2) which extends only part way through the panel; the fixing device includes an anchor bolt including a fixing means (6) and an anchoring zone (3) that widens in cross section in the direction of insertion and a covering of resilient plastic material (4) including silicone (column 14, line 34) wherein the resilient material is to permit some inclination of the bolt (see column 1, paragraph 3). While Oberhofer does not specifically disclose the amount of inclination it appears that the 10 degrees would be inherent due to the spacing provided by the plastic material between the hole and the fixing device.

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Alternatively, the amount of inclination would have been obvious to one of ordinary skill in the art depending upon the amount of inclination needed for a particular application.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oberhofer as applied to claim 5 above, and further in view of Mallon (US 846,493). Mallon teaches the use of a curable compound (lines 65-69) securing a fixing device in an undercut hole. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the device of Oberhofer with a curable compound as disclosed in Mallon in order to secure the fixing device in the hole and allowing the fixing device to be installed into the hole through the reduced diameter end of the hole.

Response to Remarks

Applicant's amendment has overcome the rejection over Oberhofer's Fig. 14 for the reasons as argued by applicant. However, as recognized by applicant, the structure disclosed in Oberhofer's Fig. 7 is still relevant to the claims as amended. In that regard, applicant argues that the claims define over Oberhofer's Fig. 7 because contrary to the instant invention, the glass panel disclosed in Oberhofer is a laminated. In response, the examiner disagrees with applicant because as discussed above, the claims do not preclude the panel from being laminated nor do the claims preclude the inclusion of the cover plate. Although the claims are interpreted in light of the specification, limitations

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from the specification are not read into the claims. See *In re Van Geuns*, 988

F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As a suggestion, applicant might want to look at claiming the relative dimensions of the resilient plastic material or the bolt head as compared to the size of the hole. In other words it looks like a distinction between the instant invention and Oberhofer is that in the instant invention the bolt is inserted from the front of the panel whereas in Oberhofer the bolt is inserted from the back of the panel and it is the dimension of the bolt and plastic material being smaller than the hole entrance which facilitates this distinction. The examiner makes no guarantee that this would be allowable; applicant should still review all the prior art including all of Oberhofer.

In regards to claim 10, applicant argues the combination of Oberhofer and Mallon would not be motivated because one would not look to combine a resilient anchoring as in Oberhofer with a hard anchoring as in Mallon. In response, the examiner disagrees because both are concerned with mounting a stud to a panel and the skilled artisan therefore would have considered both references. Additionally, applicant argues the combination would not yield a second hard layer around a resilient layer. In response, the examiner again disagrees because the second hard layer would simply be an adhesive to secure the bolt and the resilient member within the hole as it is with Mallon. There is nothing which prevents the use of both the resilient layer and a hard layer.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on 571-272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Flemming Saether
Primary Examiner
Art Unit 3677

/Flemming Saether/
Primary Examiner, Art Unit 3677

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